

### **REMARKS**

Applicants thank the Examiner for the very thorough consideration given the present application, and the helpful explanation of the Examiner's position. Claims 1-10 remain in the application and claims 1, 4, 9 and 10 are independent.

The Office Action dated October 15, 2008 has been received and carefully reviewed. Each issue raised in the Office Action is addressed below. Favorable reconsideration and allowance are respectfully requested in view of the following remarks.

#### **Claim Rejections – 35 U.S.C. § 103**

Claims 1-9 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Hatano in view of Miyazaki. Applicants submit the Examiner has failed to establish a *prima facie* case of obviousness and respectfully traverse the rejection. A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

In order to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the cited references must teach or suggest each and every element in the claims. *See M.P.E.P. § 706.02(j); M.P.E.P. 2141-2144.*

While not conceding the appropriateness of the Examiner's rejection, but merely to advance prosecution of the instant application, Applicants respectfully submit that independent claims 1, 4 and 9 have been amended to recite a combination of elements in a substrate processing apparatus, and independent claim 10 has been amended to recite a semiconductor device producing method using a substrate processing apparatus, wherein the two supply tubes include a first mass controller and a second mass controller, and one of the two supply tubes include a heater between the first or second mass controller and said single gas supply member. Applicants respectfully submit that this combination of elements as set forth in independent claims 1, 4, 9 and 10 is not disclosed or made obvious by the prior art of record, including Hatano and Miyazaki.

The Examiner states that Hatano shows a substrate processing apparatus having all of the features claimed except for the first and second supply tubes each individually connected to the gas supply member, and wherein the controller MFC 222 in Figure 3 is "capable of alternate supply" of the various gases from gas sources 208-209d via valves V" and V21-V25. Further

according to the Office Action, it would have been obvious to combine the devices of Hatano with the two independent supply tubes 221 and 222 of Miyazaki to avoid unwanted product in the gas line and improve gas uniformity as taught by Miyazaki at column 1, lines 54-60.

Applicants respectfully submit that the only heaters disclosed in Hatano can be seen at 26a, 26b and 26c in the Figure 1 embodiment, at 134, 122 and 126 in the Figure 2 embodiment and at 213 in the Figure 3 embodiment, and only one mass flow controller on one supply line can be seen in each of the three embodiments. Similarly, Miyazaki shows heater 19 in the Figure 1 and Figure 9 embodiments, and no mass flow controller. Neither Hatano nor Miyazaki shows heaters on two gas supply tubes, much less two supply tubes including a first mass controller and a second mass controller, and one of the two supply tubes including a heater between the first or second mass controller and said single gas supply member, as now claimed.

Applicants respectfully submit that the combination of elements as set forth in independent claims 1, 4, 9 and 10 is not disclosed or made obvious by the prior art of record, including Hatano and Miyazaki, for the reasons explained above. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Claim 10 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Hatano in view of Miyazaki, and further in view of Raaijmakers. This rejection is also respectfully traversed.

Raaijmakers is further combined for its showing of the use of alternating supply of gases. To the contrary, Raaijmakers fails to disclose any substrate processing apparatus, heaters or mass flow controllers, at all, much less substrate processing apparatus having two supply tubes including a first mass controller and a second mass controller, and one of the two supply tubes including a heater between the first or second mass controller and said single gas supply member, as now claimed. Accordingly, the Office Action fails to make out a *prima facie* case of obviousness of the subject matter recited in claim 10, as now amended. Reconsideration and withdrawal of the rejection are respectfully requested.

Conclusion

All objections and rejections raised in the Office Action having been properly traversed and addressed, it is respectfully submitted that the present application is in condition for allowance. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Notice of same is earnestly solicited.


Prompt and favorable consideration of this Amendment is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Paul T. Sewell, Registration No. 61,784, at (703) 205-8000, in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By  12/12/08  
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